

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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JOANN CLOONAN and RAY CLOONAN, HER CIVIL ACTION  
SPOUSE,  
Plaintiffs, NO.:

v.

BJ'S WHOLESALE CLUB, INC., UE TONNELLE JURY TRIAL DEMANDED  
COMMONS LLC A/K/A NORTH BERGEN EAT II  
LLC A/K/A URBAN EDGE PROPERTIES, JOHN  
DOES 1-10 (FICTITIOUS NAMES REPRESENTING  
UNKNOWN INDIVIDUALS) AND/OR XYZ CORPS.  
1-10 (FICTITIOUS NAMES REPRESENTING  
UNKNOWN CORPORATIONS, PARTNERSHIPS  
AND/OR LIMITED LIABILITY COMPANIES OR  
OTHER TYPES OF LEGAL ENTITIES)

Defendants.

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NOTICE FOR REMOVAL OF ACTION  
PURSUANT TO 28 U.S.C. §1441

Defendants, BJ'S WHOLESALE CLUB, INC. (hereinafter "The Club" and/or "Defendant"), and Defendant UE TONNELLE COMMONS LLC i/s/h/a UE TONNELLE COMMONS LLC a/k/a NORTH BERGEN EAT II LLC a/k/a URBAN EDGE PROPERTIES (hereinafter "UE Commons" and/or "Defendant" hereby submit notice to the United States District Court for the District of New Jersey for the removal of the above entitled action to this Honorable Court and, in support thereof, respectfully represents:

1. The Club is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business located in the Commonwealth of Massachusetts.
2. UE Commons is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business located in the State of Delaware.

3. Upon information, knowledge and belief, Plaintiffs, are adult individuals and citizens and residents of the State of New Jersey, residing at 205 Fourth St., Fairview, New Jersey 07022.

4. At all times material hereto, The Club was duly registered to do, and was doing, business in the State of New Jersey.

5. Upon information, knowledge and belief, UE Tonnelle was duly registered to do, and was doing, business in the State of New Jersey.

6. On or about November 13, 2019, Plaintiffs instituted the above action, by way of Complaint (the "Complaint"), a copy of which is attached hereto as **Exhibit "A,"** in the Superior Court of New Jersey, Bergen County, as of Docket No. BER-L-7895-19, seeking damages against The Club and UE Tonnelle for injuries Plaintiffs allegedly sustained in an accident occurring at The Club's place of business located at 2100 88<sup>th</sup> Street, North Bergen, New Jersey (the "premises") on May 23, 2018 (the "incident").

7. At the time the action was filed, The Club did not have notice that the value of Plaintiffs' claims exceeded Seventy Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs.

8. On or about November 27, 2019, Plaintiffs filed proof of service of the Complaint on The Club and UE Tonnelle.

9. On December 2, 2019, The Club filed its Answer & Affirmative Defenses to the Complaint, a copy of which is attached hereto as **Exhibit "B,"** in which The Club included a Request for Statement of Damages pursuant to N.J.R.Civ.P. 4:5-2. However, Plaintiffs have not responded to the Request for Statement of Damages.

10. On December 18, 2019, UE Tonnelle filed its Answer & Affirmative Defenses to

the Complaint, a copy of which is attached hereto as **Exhibit "C,"** in which UE Tonnelle included a Request for Statement of Damages pursuant to N.J.R.Civ.P. 4:5-2. However, Plaintiffs have not responded to the Request for Statement of Damages.

11. On March 6, 2020, a Substitution of Attorney was filed on behalf of UE Tonnelle, a copy of which is annexed hereto as **Exhibit "D."**

12. On December 11, 2019, The Club served a Request for Admissions, seeking for Plaintiffs to admit or deny whether they allege that their damages are more than \$75,000. A copy of The Club's Request for Admissions is attached hereto as **Exhibit "E."**

13. On December 20, 2019, Plaintiffs responded to The Club's Request for Admissions and stated that they can neither admit nor deny that Plaintiffs' alleged damages are more than \$75,000. A copy of Plaintiffs' response to the Request for Admissions is attached hereto as **Exhibit "F."**

14. Diversity of citizenship exists between Plaintiffs, citizens and residents of the State of New Jersey, The Club, a corporation organized and existing under the laws of the State of Delaware and having its principal place business in the Commonwealth of Massachusetts, and UE Tonnelle, upon information and belief, is a Delaware limited liability company, with a principal place of business in New Jersey.

15. Complete diversity of citizenship exists between the parties and removal is proper pursuant to 28 U.S.C. § 1441, *et seq.*

16. The said diversity of citizenship existed at the time the action sought to be removed was commenced and continues to the time of the filing of this Notice. Therefore, as to said claims and causes of action, Defendants are entitled to removal pursuant to 28 U.S.C. §1441, *et seq.*

17. 28 U.S.C. §1446(b) reads, in pertinent part, that:

If the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable, except that a case may not be removed on the basis of jurisdiction conferred by section 1332 [diversity of citizenship] of this title more than 1 year after commencement of the action.

18. This Notice of Removal is timely under 28 U.S.C. §1446(b) as it is filed within thirty (30) days after The Club's first notice that Plaintiffs' claimed damages, if proven, are valued in excess of Seventy Five Thousand (\$75,000.00) Dollars, exclusive of interest and costs. Moreover, this Notice of Removal is made within one (1) year after the filing of the Complaint on November 13, 2019.

WHEREFORE, the above action now pending against Defendants, BJ's Wholesale Club, Inc. and UE Commons LLC, in the Superior Court of New Jersey, Bergen County, is removed therefrom to this Honorable Court.

Respectfully submitted,

**CHARTWELL LAW**

Dated: March 11, 2020

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